IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Letters Patent Appeal No.223 of 2007 (O&M)

Date of Decision: November 15, 2007

PRTC

...Appellant

VERSUS

Mewa Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE VIJENDER JAIN, CHIEF JUSTICE
HON'BLE MR.JUSTICE RANJIT SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr.Balwinder Singh, Advocate,
for the appellant.

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Pepsu Road Transport Corporation has filed this appeal challenging the judgment passed in Civil Writ Petition No.15517 of 1999, whereby a Single Judge of this court directed the appellant-Corporation to treat the respondent in service from the date of his engagement till superannuation without any break and to pay all the

benefits including pension as flows from the decree dated 21.10.1995.

Respondent Mewa Singh retired as a Driver from the appellant Corporation, but was declined pension on the ground that he did not have the requisite qualifying service in this regard. This short fall in the service was due to the fact that the respondent had been proceeded against for being absent without leave from 13.7.1983 to 31.7.1983 and his services were terminated on 25.11.1983. This order was impugned by the respondent by filing a civil suit on 1.2.1988, which was decreed in his favour on 21.10.1995. The order terminating the respondent was set-aside and period of his absence was directed to be treated as a `leave of kind due'. Taking shelter behind this, the appellant Corporation has taken stand that service of the respondent from the time he was terminated and then reinstated pursuant to the order passed in the civil suit, is not countable towards pensionable service. This action of the appellant was challenged by the respondent through writ petition noted above, which stands allowed.

The counsel for the appellant would mainly contend that the period for which the respondent had remained out of service cannot be taken as his service for the purpose of granting benefit or pensionary benefit to the respondent. Similar contention raised before the Single Judge on behalf of the appellant has rightly been rejected by the learned Single Judge. Once the respondent was kept away from service on account of an order, which has been set-aside, then he cannot be put to any dis-advantage on account of the action of the appellant, which had kept the respondent away from service.

Even otherwise, it is noticed by the learned Single Judge that the decree of the civil suit itself provides for continuity of service as is seen from the judgment dated 21.10.1995. It may also need a notice that the appellant Corporation did not challenge this decree passed in favour of the respondent, which had also directed reinstatement of the respondent.

We do not find any justification in the submission made by the learned counsel for the appellant, which may call for any interference in the judgment passed by the learned Single Judge. We would accordingly dismiss this appeal in limine.

(VIJENDER JAIN)
CHIEF JUSTICE

November 15, 2007
ramesh

(RANJIT SINGH)
JUDGE